

8 a controller which selects said first power level to increase a  
9 probability of said at least portions that have not been correctly  
10 received by said receiver and of consequent transmission of said at  
11 least portions at said second power level to minimize average power  
12 consumption taking into account the first power level and the second  
13 power level.--

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REMARKS

Reconsideration of the present application as amended is respectfully requested.

By means of the present amendment, claims 12-14 have been amended to correct an informality and place them in better form for appeal.

In the Final Office Action, claims 2-5 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,713,074 (Hulbert). Further, claims 8-14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hulbert in view of U.S. Patent No. 5,722,051 (Agrawal). In response, claims 5 and 12-14 have been amended and new claim 15 has been added to clarify the present invention. It is respectfully submitted that claims 2-5 and 8-15 are patentable over Hulbert and Agrawal for at least the following reasons.

On page 5 of the Final Office Action, the Examiner has agreed

that Hulbert does not mention that the first power level is selected to be the lowest level to correspond to a maximum allowable probability of failed first information units transmission and consequent second information units transmission. However, the Examiner has alleged that "it is well known in telecommunication field that all transmitter have the minimum and maximum power levels at which they can transmit signal and lowest transmitted power level corresponds to a maximum allowable probability of fails."

Applicant respectfully submits that at best it may be well known to set the power level for maximum allowable probability of failed first transmission, but selecting the first power level to control the average power consumption of the transmitter in order to increase the probability of failed first information transmission and to increase consequent second information transmission, and to minimize average power consumption taking into account the first and second power levels is not known or obvious.

This feature provides substantial benefits, such as allowing the first power level  $P_1$  to be lower than the power level  $P_k$  of prior art transmitter, as shown in FIG 4, in order to minimize the average of the first power level  $P_1$  and the second higher power level  $P_R$  for transmission of any failed portions. Thus, a lower first power  $P_1$  than the prior art power  $P_k$  may be used, which most likely would result in increased error and retransmission at the second higher

power level  $P_R$ , however this is preferable so long as this increased error probability is tolerable and the average power taken into account both the first transmission power and second retransmission power is lowered, such as lower than the prior at transmission power  $P_k$ , as described on page 11, lines 22-25.

Selecting the first power level to increase a probability of failed first information transmission and of consequent retransmission of the failed first information as information transmission at a higher second power level, yet minimize average power consumption taking into account the first and second power levels, as recited in independent claims 5 and 12-15 is nowhere taught or suggested in Hulbert, Agrawal, or combination thereof.


Accordingly, it is respectfully submitted that independent claims 5 and 12-15 be allowed. In addition, as claims 2-4 and 8-11 depend from independent claims 12-13, applicant respectfully requests that claims 2-4 and 8-11 also be allowed over Hulbert and Agrawal.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

If any informalities remain, the Examiner is requested to telephone the undersigned in order to expedite allowance.

Please charge any fee deficiencies and credit any overpayments  
to Deposit Account No. 14-1270.

Respectfully submitted,

By   
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Enclosure: Marked Up Amended Claims (Appendix A)

## Appendix A

### Version with Markings to Show Changes Made to the Claims

The following are marked up versions of amended claims 5 and 12-14:

1           5. (Twice Amended) A method of transferring traffic  
2 information in units over a wireless digital communications link  
3 between a transmitting station and a receiving station comprising  
4 the steps of:  
5           transmitting first information units at a first power level;  
6           monitoring if correct reception of the transmitted units  
7 occurred; and  
8           transmitting second information units associated with the first  
9 information units, for which first information units the monitoring  
10 did not indicate correct reception occurred, at a second power level  
11 which is greater than the first power level, the second information  
12 units allowing the content of the first information units to be  
13 established;  
14           wherein the first power level is selected to increase a  
15 probability of failed first information units transmission and of  
16 consequent second information units transmission and to minimize  
17 average power consumption taking into account the first power level

18 and the second power level, said first power level being be the  
19 lowest level to correspond to a maximum allowable probability of  
20 failed first information units transmission and said consequent  
21 second information units transmission.

1 12. (Twice Amended) A digital wireless communications system  
2 comprising:  
3 at least one transmitter having means for transmitting first  
4 information units at a first power level;  
5 at least one receiver having means for receiving the  
6 transmitted information units;  
7 control means for controlling the transmitter output power; and  
8 monitoring means for monitoring if correct reception of the  
9 transmitted units occurred at the receiver,  
10 wherein the transmitting means transmits second information  
11 units associated with the first information units for which first  
12 information units the monitoring means does not indicate correct  
13 reception has occurred, the second information units being  
14 transmitted at a second power level that is greater than the first  
15 power level, the second power level being selected by the control  
16 means, and wherein the second information units allow the content of  
17 the first information units to be established, and

18            wherein the control means selects the first power level to  
19    control the average power consumption of the transmitter in order to  
20    ~~maintain a minimum~~ increase a probability of failed first  
21    information units transmission and of consequent second information  
22    units transmission and to minimize average power consumption taking  
23    into account the first power level and the second power level ~~for~~  
24    ~~the consequent probability of transmission of second information~~  
25    units.

1            13. (Twice Amended) A transmitter station for digital wireless  
2    transmission of traffic information to a receiver, said transmitter  
3    station comprising:

4            a transmitter for transmitting first information units at a  
5    first power level;

6            control means for controlling the transmitter output power; and  
7            monitoring means for monitoring if correct reception of the  
8    transmitted units occurred at the receiver,

9            wherein the transmitter transmits second information units  
10    associated with the first information units for which first  
11    information units the monitoring means does not indicate correct  
12    reception has occurred, the second information units being  
13    transmitted at a second power level that is greater than the first  
14    power level, the second power level being selected by the control

15 means, and wherein the second information units allow the content of  
16 the first information units to be established, and  
17 wherein the control means selects the first power level to  
18 control the average power consumption of the transmitter in order to  
19 ~~maintain a minimum~~ increase a probability of failed first  
20 information units transmission and of consequent second information  
21 units transmission and to minimize average power consumption taking  
22 into account the first power level and the second power level ~~for~~  
23 ~~the consequent probability of transmission of second information~~  
24 ~~units.~~

1 14. (Once Amended) A method of transferring traffic  
2 information in units over a wireless digital communications link  
3 between a transmitting station and a receiving station comprising  
4 the steps of:

5 transmitting first information units at a first power level;  
6 monitoring if correct reception of the transmitted units  
7 occurred; and

8 transmitting second information units associated with the first  
9 information units, for which first information units the monitoring  
10 did not indicate correct reception occurred, at a second power level  
11 which is greater than the first power level, the second information



12 units allowing the content of the first information units to be  
13 established;

14 wherein the first power level is selected to control the  
15 average power consumption of the transmitting station in order to  
16 ~~maintain a minimum~~ increase a probability of failed first  
17 information units transmission and of consequent second information  
18 units transmission and to minimize average power consumption taking  
19 into account the first power level and the second power level ~~for~~  
20 ~~the consequent probability of transmission of second information~~  
21 units.